

REMARKS/ARGUMENTS

In the specification, new paragraphs [0010.1], [0010.2], and [0012.1] have been deleted. Applicant does not consider these paragraphs to be new matter but will delete the paragraph in response to the examiners requirement. Applicant does not understand how references to the prior art could be considered new matter absent incorporation by reference language.

Claims 1 – 21 have been cancelled.

Claim 22 is currently amended. Claims 23-46 have been previously presented. Applicant has noted the error in claim numbering and has made the appropriate corrections.

Regarding the Section 132 new matter rejections

Paragraphs [0010.1], [0010.2], and [0012.1] have been deleted.

Paragraph [0010.1] only pertains to U.S. patent 6,582,741 issued to Haig which, for the record, applicant included as part of an IDS prior to any office action relating to the above application. Applicant was only too pleased to include a prior art patent relating to an unappreciated problem in the art of butchery which applicant believes to have solved, a solution that the Haig patent does not disclose, nor suggest

Paragraph [0010.2] again refers to the Haig disclosure which purportedly shows through the drawing figures an illogical situation, namely that the pork roast shown could be tightly and axially bound.

Paragraph [0012.1] relates to the centuries old and almost extinct practice of larding.

None of the above paragraphs were incorporated by reference into the description of applicant's disclosure in the previous amendment.

Regarding lack of possession and written description required by 35 USC § 112 first paragraph within claims 22 through 46.

As to Claim 22 lacking written description regarding the chemical make up of meat:

Applicant respectfully disagrees. The bio-chemical make up of meat is well documented and is common knowledge to the public as a whole and specifically to those skilled in the art. Meat is widely known to contain 70 percent water and 20 percent protein.

As to Claim 30 lacking written description regarding the proportionate weights of applicants coaxially combined roast:

Applicant respectfully disagrees. Drawing figures 1, 2a and 2b clearly and reasonably show possession of the claimed subject matter.

The corresponding weights of muscle tissues taken the sub primal meat cuts are well known and documented in the art of butchery. Typically the top loin taken from a short loin will have a weight twice that of the tenderloin taken therefrom. The tenderloin would have a weight 50 percent of the respective top loin. In applicants disclosure there is taught a process for inserting a tenderloin into the respective top loin thereof both having been removed from a single short

loin half, and the asserted claimed product resulting therefrom. By this intrinsic evidence possession would be universally understood by the artisan and as such would be clear and irrefutable. Indispensable equipment for butchers are knives and scales.

With regard to the language “means for highlighting” lacking written description.

Applicant respectfully disagrees. Applicant’s disclosure teaches a method of coaxially disposing green leafy vegetable material between two coaxially combined, often, red meat elongates and the product resulting therefrom. It should be abundantly clear to the public and those having ordinary skill in the art, those teachings in the disclosure which correspond to this limitation and that the applicant was in possession of such teachings as provided by the description and drawing figures. This claim element is clearly shown in the drawing figures.

With regard to the language “non-pork muscle tissue” lacking written description.

Applicant respectfully disagrees. In paragraph [0003] the following language appears: “This invention relates generally to meat roasts”. The public will appreciate that meat roast other than pork would be included in this general statement. Paragraph [0007] indicates a problem associated with the top loin of (besides pork), “veal, lamb or venison”. The problem of enhancing the visual appearance of the top loin of these various food animals is inherently described in the specification. Applicant has solved the problems presented by the background section and has not excluded any of those animals in the description of the present application. The application reasonably conveys to the skilled artisan that possession was present at the time of the instant application. Also within paragraph [0037] the following language appears: “A Porterhouse steak is usually defined by the diameter of the tenderloin, typically two inches or larger.” This language could only refer to a beef steak given the dimension of the tenderloin and the use of the words “Porterhouse steak”. A diner ordering a Porterhouse steak from a menu expects beef and nothing else, absent any obvious “limitation” on the menu. Also butchers recognize Porterhouse steaks as being exclusively beef. This language would reasonably convey

to the artisan, possession of the claimed subject matter, namely that non-pork elongates could provide the center of the coaxially combined roast within the meaning of the specification. Also paragraph [0019] describes figure 3's diagram as being that of a "typical four legged fur bearing food animal", however an experienced butcher will recognize it to be lamb, which it is.

With regard to the language that both meats be comprised of longissimus dorsi, or those of psoas major, lacking written description.

Examiner's attention is directed to paragraph [0035] and figures 11 and 12 of applicant's disclosure. This embodiment is clearly shown and described and as such fully supports the asserted claims therefor.

Regarding, as with section 8, 9 and 10 of examiners above office action, claims 22-31 being indefinite as required by 35 U.S.C. 112 second paragraph.

The language of claim 22 is clear and distinct and particularly points out the common knowledge that meat is comprised substantially 70 percent water and 20 percent protein respectively. Animal fat tissue, such as pork fat back which consists primarily of fatty acids, and especially cured fat products such as salt pork, have 25 or less percentage of water and very, very little protein.

As to the language of claims 24 and 31 "means for highlighting" not being clear, applicant respectfully disagrees. Applicant believes that the public would have no difficulty appreciating those teachings that show a green ring being disposed between two coaxially combined meat items as being "highlighting". Also the "means for highlighting" is a separate element, not merely the transition from the center to the outer ring. The claim language states that the boundary is "between" the separate constituents.

With regard to claims 22-23, 30-31, 35-36, 40-41, and 44-45 being anticipated by the Lovell disclosure.

Applicant respectfully disagrees. The Lovell patent does not disclose an animal tissue elongate disposed within the chicken leg. It shows and teaches viscous stuffing and nothing else. Also the transition from the stuffing to the outer chicken leg does not perform the function as recited in those claims of the applicant that provide a “means for highlighting” limitation.

The respective weight relationships between the stuffing and the leg quarter meat as shown by the Lovell disclosure’s drawing figures would be irrelevant toward anticipation, as the stuffing would not be equivalent to nor be read on by applicants coaxially centered animal tissue elongate limitation.

Regarding 35 U.S.C. § 112 second paragraph toward claims 22-31 as being indefinite or failing to particularly point out the subject matter contained with the claims.

The language “dominant proportion of water and protein” was used in the above claims to distance the claimed subject matter of the above application with that of ancient, almost extinct, technique of larding in which pork fat back elongates are threaded throughout the longitudinal internal mass of large lean roasts. It should be noted that these fat strips would **not** ordinarily be considered “filling” in that most diners would consider the term “filling” with regard to food items to be a prized constituent and not, as with larding, something to increase the fat content of an ordinarily lean meat item.

With regard to paragraph 9 of the above office action stating “Claims 24 and 31 recite ‘means for highlighting’. It is not clear what component this refers to.” The antecedent recitation “boundary” is present in each claim in which “means for highlighting said boundary” occurs and would thereby present definiteness to the claim and particularity over the prior art in independent claim 31. The presence of a green circle within the coaxially combined meat slice would clearly show a means for highlighting the boundary. Applicant does not believe that the public would have any difficulty distinguishing that which highlights the boundary between the filling and the outer tubular preform when the claims are viewed in light of the specification. A

good example of “boundary highlighting” may be found with sushi which is often made of cooked rice, seafood and nori. Nori is a jet black analogue of a seaweed leaf and is often used as an outer wrapper for sushi. Nori is also used coaxially between an outer rice layer and an inner filling in order to provide a stark contrast therebetween. And with the sushi example, the transition between the filling and the rice may be easily seen absent the nori, the nori provides a means for highlighting the boundary thereinbetween which many sushi chefs and diners obviously find appealing.

Regarding 35USC § 102 rejections

Claims 22-23, 30-31, 35-36, 40-41, and 44-45 have been rejected as being anticipated by U.S. 3,615,692 Issued to Lovell. The Lovell disclosure teaches a method for the removal of the leg and thigh bones of a poultry leg quarter and then stuffing the cavity produced thereby with “viscous material”. It is neither described nor suggested within the Lovell disclosure that an animal tissue elongate be substituted for the viscous stuffing. And while the boundary disposed between the leg tissues and the viscous stuffing would be discernable, it would not perform the function of the presently asserted highlighting means-plus-function claim element in and of itself. It is applicants understanding that each and every element of the asserted claims must be present in the single prior art disclosure in order to anticipate the asserted claim. Applicant does not find anticipation with regard to the Lovell disclosure as it relates to any of applicants asserted claims.

Claims 22, 24 and 30-31, 40-41 and 44-45 have been rejected as being anticipated by U.S. 6,599,545 issued to Holbrook.

Applicant respectfully disagrees. In order to anticipate a claim each and every claim limitation must be found in a single prior art reference. Such is not the case with the Holbrook patent. There is not shown, taught or suggested a tubular perform comprised of meat within the

Holbrook disclosure. Also, it would be impossible to create a tubular preform of meat using the Holbrook drill, the tensile strength of raw meat would not allow this. Beyond that, the transverse geometry of a top loin (of any animal type) would not allow for the coring of a space of sufficient dimension to receive the respective tenderloin. This would not be possible.

Claim 31 and 35-36 have been rejected as being anticipated by U.S. 6,582,741 issued to Haig. The Haig disclosure neither describes nor suggests that an animal tissue elongate be disposed within the incised pork top loin. The transition between the edible filling and the outer preform would be discernable, though this transition would not perform the claimed function nor be equivalent thereto. The Haig disclosure discloses a meat preform containing a viscous filling. Even if the filling were comprised entirely of spinach, which it certainly could, the claim limitation toward highlighting the border would not be present. In applicant's asserted claims the boundary is between the longitudinal constituents.

Regarding the 35 USC § 103 rejections

Claims 22, 24, and 30 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Haig in view of Huling.

Patents issued to Haig (U.S. 6,582,741) and Huling (U.S. 6,117,467) teach similar devices namely a plunger system for stuffing viscous material into pork loins, with the Haig disclosure and various edibles with the Huling disclosure. Combined, these disclosures do not teach, nor is there present when combined the claimed subject matter of applicant's asserted claims. Nowhere in either of these disclosures is it taught nor suggested that an animal tissue elongate be inserted into a tubular preform comprised of meat. The material to be stuffed the Huling disclosure is vague. For instance in line 25 under the paragraph headed by "Related Art" the following passage appears:

Other materials may also be used for stuffing, such as vegetables (onions, garlic and the like),
And other meats (sausage mix stuffed into a roast, or crawfish or crab meat stuffed into other meats).

The Huling disclosure does not teach, disclose, or suggest that whole onions be loaded into the device and stuffed into a meat item, despite the vague language, any more than it teaches that lengths of animal tissue be likewise used to fill the available incision. The words vegetables and meats are used to indicate the type of material used in viscous stuffings, nothing else is taught nor suggested. The Huling disclosure does not repair the shortcomings of the Haig disclosure's teachings with regard to applicants above asserted claims.

Claims 26-29 and 42-43 have been rejected under 35 U.S.C. 103 (a) as being unpatentable over Haig, in view of Holbrook, and further in view of applicants admitted prior art.

The Haig disclosure does not teach or suggest an incision of sufficient dimension to receive the pork loin's respective tenderloin, therefore even the combined references do not disclose the combination of applicant's asserted claims absent applicant's disclosure in which particular attention was paid to the incision required for the instant invention claimed by the applicant.

Applicant is unable to ascertain any motivation for a person having ordinary skill in the art of butchery to combine these disclosures, absent applicants disclosure. The Holbrook patent teaches a hand held sandwich type food item containing an arcuate arrangement of cold cuts and sandwich fixings, with no motivation contained therein to combine the teachings thereof with those of Haig or any of the other raw meat roast disclosures shown above.

Additionally, applicant firmly believes that the prior art relating to the combination of the top loin with the tenderloin point decidedly toward secondary conditions of patentability as provided by Graham v. John Deer, in that combining the top loin with the tenderloin have been, and continue to be, performed by a variety of complicated, time consuming procedures requiring a

great deal of expertise and effort which result in a product having much less visual or dining appeal than that taught by applicants disclosure.

Claims 23 and 25 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Haig, in view of Huling and further in view of Giuliano Bugialli's Techniques of Italian Cooking. Again applicant is unable to ascertain any suggested motivation for a person having ordinary skill in the art of butchery to combine these references, absent applicant's disclosure. Again, the Bugialli disclosure does not show the raw meat item sliced into steaks. The instructions to slice the roast follow those for cooking it. Upon being cooked, the veal tissues become fixed and firm due to the coagulation of the tissue-based proteins as well as the natural constriction due to the cooking. The Bugialli disclosed rolled roast would not provide acceptable steaks when sliced raw absent the shown binding. The meat products shown by Haig and Huling would not be suitable for slicing and grilling as the viscous filling would become dislodged during cooking, turning and transport, especially when cooked on a grill.

Applicant's disclosure involves the discovery that the tenderloin taken from the short loin of a food animal will fit longitudinally into the respective top loin thereof if careful steps are taken as shown in applicants specification. Applicant's disclosure solves a centuries-old long felt need toward the art of butchery. "Boned and rolled" short loins may be ordered from butcher shops today, and as described in the background section of applicant's disclosure, these roasts contain the boneless top loin, the boneless tenderloin, the "skirt" wrapper and unavoidably contain a large proportion of gristle and fat. The boned and rolled roast is that which is described in the Bugialli instructions as well as that of the Beverly Cox cooking technique book excerpt. These roasts do not approach the visual appeal of applicants disclosed coaxial roast when cooked and sliced, nor the simplicity of construction, versatility and convenience of use. Applicant requests that Graham considerations be regarded toward the asserted claims.

Claims 32-34 have been rejected under 35 U.S.C 103(a) as being unpatentable over Haig in view of Bemis (U.S. Patent number 1,807,189).

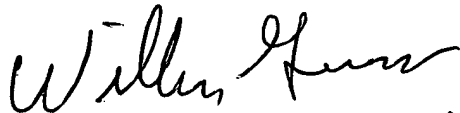
These disclosures are non analogous. Beyond that, there must be found within these disclosures a motivation to combine. None is present. . The Haig patent describes a raw food product intended for cooking. The Bemis patent teaches a hand held, ready to eat, sandwich-type food item. The examiner has not established a *prima facie* finding of obviousness toward the combination of these references in that no motivation to combine is present within either of these disclosures toward the other.

Claims 37-39 and 46 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Haig, in view of Huling, in further view of Bemis.

Applicant insists that the Bemis patent is non analogous to either the Haig or Huling patent with regards to filling a meat item. There is no motivation provided in the above disclosures toward the combination thereof, and as such, no *prima facie* finding of obviousness has been established by the examiner.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,



William Guess

2-11-05

Applicant